

16 MAINE DEPARTMENT OF PUBLIC SAFETY

222 BUREAU OF THE MAINE STATE POLICE

Chapter 4: MAINE MOTOR CARRIER SAFETY REGULATION (*Cite as 16-222*
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§ 1. DEFINITIONS

For the purpose of this Chapter, the following terms are defined as follows:

- A. **Commercial motor vehicle.** “Commercial motor vehicle” means any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle
 - 1. Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
 - 2. Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
 - 3. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

- 44
45 4. Is used in transporting material found by the Secretary of
46 Transportation to be hazardous under 49 U.S.C. 5103 and
47 transported in a quantity requiring placarding under regulations
48 prescribed by the Secretary under 49 CFR, subtitle B, chapter I,
49 subchapter C.

50
51 B. **FMCSA.** "FMCSA" means "Federal Motor Carrier Safety
52 Administration."

53
54 C. **Motor carrier.** "Motor carrier" means a for hire motor carrier or a private
55 motor carrier. The term includes a motor carrier's agents, officers and
56 representatives as well as employees responsible for hiring, supervising,
57 training, assigning, or dispatching of drivers and employees concerned
58 with the installation, inspection, and maintenance of motor vehicle
59 equipment and/or accessories. For purposes of subchapter B of the
60 Federal regulations adopted and incorporated by reference in this Chapter,
61 this definition includes the terms employer and exempt motor carrier.

62
63 D. **Special agent of the FMCSA.** "Special agent of the FMCSA," as used in
64 this Chapter, means a motor carrier inspector, state police officer,
65 municipal officer, or sheriff, who has satisfactorily completed a prescribed
66 course of instruction established by the Maine State Police with respect to
67 the Federal regulations adopted and incorporated by reference, with or
68 without State of Maine amendments, into this Chapter.

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70 E. **State.** "State" means State of Maine.

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72
73 **§ 2. APPLICABILITY**

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75 This regulation applies to any interstate or intrastate common, contract, and
76 private motor carrier that transports passengers or property in Maine.

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79 **§ 3. ADOPTION AND INCORPORATION BY REFERENCE OF FEDERAL**
80 **REGULATIONS, WITHOUT STATE AMENDMENTS**

81
82 Pursuant to 29-A M.R.S.A. §555, sub-§2, the Bureau of the Maine State Police
83 hereby adopts and incorporates by reference into this Chapter, without State
84 amendments:
85

- 86 A. Title 49 Parts 40, 382, 390, 393, and 396, and Appendices to Subchapter B
87 of the Code of Federal Regulations, as amended ~~and as of February 2011~~;
88
89 B. Title 49 Part 392, §§ 392.1 through 392.71 of the Code of Federal
90 Regulations, as amended ~~and as of February 2011~~; and
91
92 C. Title 49 Part 392, §§ 392.80 and 392.82 of the Code of Federal Regulations,
93 as amended ~~and as of February 2012~~.
94

95
96 **§ 4. ADOPTION AND INCORPORATION BY REFERENCE OF FEDERAL**
97 **REGULATIONS, WITH STATE AMENDMENTS**
98

99 Pursuant to 29-A M.R.S.A. §555, sub-§2, the Bureau of the Maine State Police
100 hereby adopts and incorporates by reference into this Chapter (1) Title 49 Parts
101 383, 391, and 395, and Appendices to Subchapter B, of the Code of Federal
102 Regulations, as amended ~~and as of February 2011~~, with the following State
103 amendments, and (2) Title 49, Section 391.41(b)(12)(i) as amended ~~and as of~~
104 ~~February 2012~~, with the following State amendments:
105

106 A. **Hazardous Materials**
107

- 108 1. There are no exemptions for motor carriers, vehicles, or drivers
109 transporting hazardous materials of a type or quantity that requires
110 the vehicle to be marked or placarded in accordance with 49 CFR,
111 Subchapter C, Pt. 172.
112

113 B. As to 49 CFR Pt. 383, the following amendments are made:
114

- 115 1. Intrastate motor carriers, vehicles, and drivers to whom this
116 Chapter applies *are only subject to* 49 CFR §§ 383.1(a), 383.3(a),
117 383.5, 383.21, 383.23(a), 383.23(a)(2), 383.23(c), 383.31, 383.33, 383.37,
118 383.51, 383.52, 383.53, and 383.72.
119

120 C. As to 49 CFR Pt. 391, the following amendments are made:
121

- 122 1. Intrastate motor carriers, vehicles, and drivers to whom this
123 Chapter applies that operate less than 100 air miles from their
124 regular place of business *are only subject to* 49 CFR §§ 391.13,
125 391.15, 391.23(a), 391.23(a)(1), 391.25(a), 391.25(b), 391.27(a), ~~and~~
126 391.27(b), ~~and 391.41(b)(12)(i)~~.
127

Documents and records obtained from inquiries made pursuant to 49 CFR §§ 391.23, 391.25, and 391.27 must be maintained on file by the motor carrier for a period of two years.

2. Intrastate motor carriers, vehicles, and drivers to whom this Chapter applies that operate more than 100 air miles from their regular place of business *are exempt from* 49 CFR §391.11(b)(1). Intrastate drivers to whom this Chapter applies that operate more than 100 air miles from their regular place of business must be at least 18 years old.

3. Drivers to whom this Chapter applies *are exempt from* 49 CFR §391.41(b)(11).

D. As to 49 CFR Pt. 395, the following amendments are made:

1. Intrastate motor carriers, vehicles, and drivers to which this Chapter applies that operate less than 100 air miles from their regular place of business are exempt from 49 CFR Pt. 395.

§ 5. ADOPTION AND INCORPORATION BY REFERENCE OF ADDITIONAL FEDERAL REGULATIONS

The Bureau of the Maine State Police hereby adopts and incorporates by reference into this Chapter Title 49 Part 385 of the Code of Federal Regulations, as amended ~~and as of February 2011~~.

§ 6. QUALIFICATIONS TO ENFORCE THIS CHAPTER

A. Only special agents of the FMCSA may enforce this Chapter.

B. Special agents of the FMCSA who are only approved to enforce driver-only aspects of this Chapter must have reasonable, articulable suspicion to stop a commercial motor vehicle.

166 **§ 7. SOURCE OF FEDERAL REGULATIONS**

167
168 Copies of the Federal rules adopted and incorporated by reference herein may be
169 obtained from the following agencies:

170
171 Superintendent of Documents
172 U.S. Government Printing Office
173 Washington, D.C. 20402

174
175 Maine Department of Public Safety
176 Bureau of Maine State Police
177 20 State House Station
178 Augusta, ME 04333-0020

179
180
181 **§ 8. SEVERABILITY**

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183 Should any provision of this Chapter or the application of this Chapter to any
184 person or circumstance be held invalid, the invalidity does not affect other
185 provisions or applications of this Chapter that can be given effect without the
186 invalid provision or application, and to this end the provisions of this Chapter
187 are severable.
188

189
190
191 **BASIS STATEMENT**

192 **This chapter - which applies to any interstate or intrastate common, contract, and**
193 **private motor carrier that transports passengers or property in Maine - will ensure**
194 **that Maine commercial vehicle regulations remain current with the rest of the nation**
195 **and that Maine's roads are safe for the traveling public.**

196 **Specifically, through this rulemaking, Federal regulations will be incorporated by**
197 **reference into the regulation that will, among other things, prohibit CMV operators**
198 **from text messaging while operating a CMV and from using a cell phone during such**
199 **operation except in hands-free mode. In addition, through this rulemaking the**
200 **Maine State Police will be amending its rules governing motor carrier safety to**
201 **provide that operators for intrastate motor carriers that operate less than 100 air miles**
202 **from their regular place of business are subject to the provisions of 49 Code of**
203 **Federal Regulations, Section 391.41 (2007), which prohibit the operation of a**
204 **commercial motor vehicle by a person who has methadone or its metabolite in that**
205 **person's body. Legal authority to enforce these provisions is necessary to avoid an**
206 **immediate threat to the public health, safety or general welfare of persons on Maine**
207 **roads.**